

The House Committee on Ways and Means offers the following substitute to HB 224:

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the imposition, rate, computation, and exemptions from state income tax, so as to
3 modify conditions for earning a tax credit for creating certain jobs; to adjust the wages
4 required to earn such tax credit; to increase the value of the tax credit by \$500.00 for certain
5 counties; to add a definition; to remove expired provisions; to modify conditions for earning
6 a tax credit for establishing or relocating quality jobs; to revise a tax credit for new purchases
7 and acquisitions of qualified investment property in tier 1 counties; to provide for such tax
8 credits to be allowed against a taxpayer's payroll withholding under certain conditions; to
9 provide that certain previously claimed and unused tax credits earned by taxpayers may be
10 applied against such taxpayers' payroll withholding under certain conditions; to increase the
11 minimum investment threshold to earn tax credits in tier 2, tier 3, and tier 4 counties; to
12 provide for conditions and limitations; to provide for applications and proration; to revise
13 definitions; to provide for related matters; to provide for an effective date and applicability;
14 to repeal conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **PART I**
17 **SECTION 1-1.**

18 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
19 imposition, rate, computation, and exemptions from state income tax, is amended by revising
20 Code Section 48-7-40, relating to designation of counties as less developed areas and tax
21 credits for certain enterprises, as follows:

22 "48-7-40.

23 (a) As used in this Code section, the term:

24 (1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
25 programming content to the general public, subscribers, or to third parties via radio,

26 television, cable, satellite, or the Internet or Internet Protocol and includes motion picture
27 and sound recording, editing, production, postproduction, and distribution. 'Broadcasting'
28 is limited to establishments classified under the 2007 North American Industry
29 Classification System Codes 515, broadcasting; 519, Internet publishing and
30 broadcasting; 517, telecommunications; and 512, motion picture and sound recording
31 industries.

32 (2) 'Business enterprise' means any business or the headquarters of any such business
33 which is engaged in manufacturing, including, but not limited to, the manufacturing of
34 alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric
35 vehicle enterprises, warehousing and distribution, processing, telecommunications,
36 broadcasting, tourism, research and development industries, biomedical manufacturing,
37 and services for the elderly and persons with disabilities. Such term shall not include
38 retail businesses. Businesses are eligible for the tax credit provided by this Code section
39 at an individual establishment of the business based on the classification of the individual
40 establishment under the North American Industry Classification System. For purposes
41 of this Code section, the term 'establishment' means an economic unit at a single physical
42 location where business is conducted or where services or industrial operations are
43 performed. If more than one business activity is conducted at the establishment, then
44 only those jobs engaged in the qualifying activity will be eligible for the tax credit
45 provided by this Code section.

46 (3) 'Competitive project' means expansion or location of some or all of a business
47 enterprise's operations in this state having significant regional impact where the
48 commissioner of economic development certifies that but for some or all of the tax
49 incentives provided in this Code section, the business enterprise would have located or
50 expanded outside this state.

51 (4) 'Existing business enterprise' means any business or the headquarters of any such
52 business which has operated for the immediately preceding three years a facility in this
53 state which is engaged in manufacturing, including, but not limited to, the manufacturing
54 of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and
55 electric vehicle enterprises, warehousing and distribution, processing,
56 telecommunications, broadcasting, tourism, biomedical manufacturing, or research and
57 development industries. Such term shall not include retail businesses. Businesses are
58 eligible for the tax credit provided by this Code section at an individual establishment of
59 the business based on the classification of the individual establishment under the North
60 American Industry Classification System. For purposes of this Code section, the term
61 'establishment' means an economic unit at a single physical location where business is
62 conducted or where services or industrial operations are performed. If more than one

business activity is conducted at the establishment, then only those jobs engaged in the qualifying activity will be eligible for the tax credit provided by this Code section.

(5) 'New full-time employee job' means a newly created position of employment that was not previously located in this state, requires a minimum of 35 hours a week, and pays at or above the ~~target wage, average wage earned in the county with the lowest average wage earned in this state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor.~~

(6) 'Rural county' means a county that has a population of less than 50,000 with 10 percent or more of such population living in poverty based upon the most recent, reliable, and applicable data published by the United States Bureau of the Census.

(7) 'Target wage' means:

(A) For a county that is recognized and designated by the commissioner of community affairs in accordance with this Code section as one of the first through forty least developed counties in this state, 70 percent of the average wage earned in the county with the lowest average wage earned in this state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor;

(B) For a rural county that is recognized and designated by the commissioner of community affairs in accordance with this Code section as a tier 2 county or a tier 1 county that is not one of the counties described in subparagraph (A) of this paragraph, 90 percent of the average wage earned in the county with the lowest average wage earned in this state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor; and

(C) For any other county, at least the average wage of the county that has the lowest average wage of any county in this state as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor.

(b)(1) Not later than December 31 of each year, using the most current data available from the Department of Labor and the United States Department of Commerce, the commissioner of community affairs shall rank and designate as less developed areas all 159 counties in this state using a combination of the following equally weighted factors:

(A) Highest unemployment rate for the most recent 36 month period;

(B) Lowest per capita income for the most recent 36 month period; and

(C) Highest percentage of residents whose incomes are below the poverty level according to the most recent data available.

(2) Counties ranked and designated as the first through seventy-first least developed counties shall be classified as tier 1, counties ranked and designated as the

100 seventy-second through one hundred sixth least developed counties shall be classified as
101 tier 2, counties ranked and designated as the one hundred seventh through one hundred
102 forty-first least developed counties shall be classified as tier 3, and counties ranked and
103 designated as the one hundred forty-second through one hundred fifty-ninth least
104 developed counties shall be classified as tier 4.

105 (b.1) On or before December 31 of each year, the commissioner of community affairs shall
106 publish a list of Georgia counties that he or she has determined to have a population of less
107 than 50,000 with 10 percent or more of such population living in poverty. Such
108 determination shall be based upon the most recent, reliable, and applicable data published
109 by the United States Bureau of the Census.

110 (c) The commissioner of community affairs shall be authorized to include in the tier 2
111 designation provided for in subsection (b) of this Code section any tier 3 county which, in
112 the opinion of the commissioner of community affairs, undergoes a sudden and severe
113 period of economic distress caused by the closing of one or more business enterprises
114 located in such county. No designation made pursuant to this subsection shall operate to
115 displace or remove any other county previously designated as a tier 2 county.

116 (c.1) The commissioner of community affairs shall be authorized to include in the tier 1
117 designation provided for in subsection (b) of this Code section any tier 2 county which, in
118 the opinion of the commissioner of community affairs, undergoes a sudden and severe
119 period of economic distress caused by the closing of one or more business enterprises
120 located in such county. No designation made pursuant to this subsection shall operate to
121 displace or remove any other county previously designated as a tier 1 county.

122 (d) For business enterprises which plan a significant expansion in their labor forces, the
123 commissioner of community affairs shall prescribe redesignation procedures to ensure that
124 the business enterprises can claim credits in future years without regard to whether or not
125 a particular county is reclassified in a different tier.

126 (e)(1) Business enterprises in counties designated by the commissioner of community
127 affairs as tier 1 counties shall be allowed a tax credit for taxes imposed under this article
128 equal to \$3,500.00 annually per eligible new full-time employee job for five years
129 beginning with the first taxable year in which the new full-time employee job is created
130 and for the four immediately succeeding taxable years; provided, however, that where the
131 amount of such credit exceeds a business enterprise's liability for such taxes in a taxable
132 year, the excess may be taken as a credit against such business enterprise's quarterly or
133 monthly payment under Code Section 48-7-103 but not to exceed in any one taxable
134 year \$3,500.00 for each new full-time employee job when aggregated with the credit
135 applied against taxes under this article. Each employee whose employer receives credit
136 against such business enterprise's quarterly or monthly payment under Code

137 Section 48-7-103 shall receive credit against his or her income tax liability under Code
138 Section 48-7-20 for the corresponding taxable year for the full amount which would be
139 credited against such liability prior to the application of the credit provided for in this
140 paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103
141 and credits against liability under Code Section 48-7-20 established by this paragraph
142 shall not constitute income to the taxpayer.

143 (2)(A) Business enterprises in counties designated by the commissioner of community
144 affairs as tier 2 counties shall be allowed a job tax credit for taxes imposed under this
145 article equal to \$2,500.00 annually, business enterprises in counties designated by the
146 commissioner of community affairs as tier 3 counties shall be allowed a job tax credit
147 for taxes imposed under this article equal to \$1,250.00 annually, and business
148 enterprises in counties designated by the commissioner of community affairs as tier 4
149 counties shall be allowed a job tax credit for taxes imposed under this article equal
150 to \$750.00 annually for each new full-time employee job for five years beginning with
151 the first taxable year in which the new full-time employee job is created and for the four
152 immediately succeeding taxable years.

153 (B) Where a business enterprise is engaged in a competitive project located in a county
154 designated by the commissioner of community affairs as a tier 2 county and where the
155 amount of the credit provided in this paragraph exceeds such business enterprise's
156 liability for taxes imposed under this article in a taxable year, or where a business
157 enterprise is engaged in a competitive project located in a county designated by the
158 commissioner of community affairs as a tier 3 or tier 4 county and where the amount
159 of the credit provided in this paragraph exceeds 50 percent of such business enterprise's
160 liability for taxes imposed under this article in a taxable year, the excess may be taken
161 as a credit against such business enterprise's quarterly or monthly payment under Code
162 Section 48-7-103 but not to exceed in any one taxable year \$2,500.00 for each new
163 full-time employee job when aggregated with the credit applied against taxes under this
164 article. Each employee whose employer receives credit against such business
165 enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive
166 credit against his or her income tax liability under Code Section 48-7-20 for the
167 corresponding taxable year for the full amount which would be credited against such
168 liability prior to the application of the credit provided for in this paragraph. Credits
169 against quarterly or monthly payments under Code Section 48-7-103 and credits against
170 liability under Code Section 48-7-20 established by this paragraph shall not constitute
171 income to the taxpayer.

172 (3) The number of new full-time employee jobs shall be determined by comparing the
173 monthly average number of full-time employees subject to Georgia income tax
174 withholding for the taxable year with the corresponding period of the prior taxable year.

175 (4)(A) In tier 1 counties, those business enterprises that increase employment by two
176 or more shall be eligible for the credit.

177 (B) In tier 2 counties, only those business enterprises that increase employment by ten
178 or more shall be eligible for the credit.

179 (C) In tier 3 counties, only those business enterprises that increase employment by 15
180 or more shall be eligible for the credit.

181 (D) In tier 4 counties, only those business enterprises that increase employment by 25
182 or more shall be eligible for the credit. ~~The wage of each new job created must be~~
183 ~~above the average wage of the county that has the lowest average wage of any county~~
184 ~~in the state to qualify as reported in the most recently available annual issue of the~~
185 ~~Georgia Employment and Wages Averages Report of the Department of Labor.~~

186 (5) To qualify for a credit ~~under this paragraph~~ allowed pursuant to this Code section,
187 the employer must make health insurance coverage available to the employee filling the
188 new full-time employee job; provided, however, that nothing in this paragraph shall be
189 construed to require the employer to pay for all or any part of health insurance coverage
190 for such an employee in order to claim the credit provided for in this ~~paragraph~~ Code
191 section if such employer does not pay for all or any part of health insurance coverage for
192 other employees.

193 (6) Credit shall not be allowed during a year if the net employment increase falls below
194 the number of new full-time employee jobs required ~~in such tier for a given county as~~
195 provided in paragraph (4) of this subsection.

196 (7) The state revenue commissioner shall adjust the credit allowed each year for net new
197 employment fluctuations above the minimum level of the number required ~~in such based~~
198 on a county's tier.

199 ~~Existing business enterprises shall be allowed an additional tax credit for taxes~~
200 ~~imposed under this article equal to \$500.00 per eligible new full-time employee job the~~
201 ~~first year in which the new full-time employee job is created. The additional credit shall~~
202 ~~be claimed in the first taxable year in which the new full-time employee job is created.~~
203 ~~The number of new full-time employee jobs shall be determined by comparing the~~
204 ~~monthly average number of full-time employees subject to Georgia income tax~~
205 ~~withholding for the taxable year with the corresponding period of the prior taxable year.~~
206 ~~In tier 1 counties, those existing business enterprises that increase employment by five~~
207 ~~or more shall be eligible for the credit. In tier 2 counties, only those existing business~~
208 ~~enterprises that increase employment by ten or more shall be eligible for the credit. In~~

209 tier 3 counties, only those existing business enterprises that increase employment by 15
210 or more shall be eligible for the credit. In tier 4 counties, only those existing business
211 enterprises that increase employment by 25 or more shall be eligible for the credit. The
212 average wage of the new jobs created must be above the average wage of the county that
213 has the lowest average wage of any county in the state to qualify as reported in the most
214 recently available annual issue of the Georgia Employment and Wages Averages Report
215 of the Department of Labor. To qualify for a credit under this paragraph, the employer
216 must make health insurance coverage available to the employee filling the new full-time
217 job; provided, however, that nothing in this paragraph shall be construed to require the
218 employer to pay for all or any part of health insurance coverage for such an employee in
219 order to claim the credit provided for in this paragraph if such employer does not pay for
220 all or any part of health insurance coverage for other employees. Credit shall not be
221 allowed during a year if the net employment increase falls below the number required in
222 such tier. Any credit generated and utilized for years prior to the year in which the net
223 employment increase falls below the number required in such tier shall not be affected.
224 The state revenue commissioner shall adjust the credit allowed each year for net new
225 employment fluctuations above the minimum level of the number required in such tier.
226 This paragraph shall apply only to new eligible full-time jobs created in taxable years
227 beginning on or after January 1, 2006, and ending no later than taxable years beginning
228 prior to January 1, 2011.

229 (e.1) For each new full-time employee job that is allowed a credit pursuant to
230 subsection (e), (f), or (i) of this Code section, an additional credit in the amount of \$500.00
231 per new full-time employee job shall be added to the amount allowable to be earned and
232 used pursuant to the same conditions, provided that such new full-time employee job is
233 created and maintained in a rural county recognized and designated by the commissioner
234 of community affairs as a tier 1 or a tier 2 county in accordance with the provisions of
235 subsection (b), (c), or (c.1) of this Code section.

236 (f) Tax credits for five years for the taxes imposed under this article shall be awarded for
237 additional new full-time employee jobs created by business enterprises qualified under
238 subsection (b), (c), or (c.1) of this Code section. Additional new full-time employee jobs
239 shall be determined by subtracting the highest total employment of the business enterprise
240 during years two through five, or whatever portion of years two through five which has
241 been completed, from the total increased employment. The state revenue commissioner
242 shall adjust the credit allowed in the event of employment fluctuations during the five years
243 of credit.

244 (g) The sale, merger, acquisition, or bankruptcy of any business enterprise shall not create
245 new eligibility in any succeeding business entity, but any unused job tax credit may be

246 transferred and continued by any transferee of the business enterprise. The commissioner
247 of community affairs shall determine whether or not qualifying net increases or decreases
248 have occurred and may require reports, promulgate regulations, and hold hearings as
249 needed for substantiation and qualification.

250 (h) Any credit claimed under this Code section but not used in any taxable year may be
251 carried forward for ten years from the close of the taxable year in which the qualified jobs
252 were established, subject to forfeiture as provided in paragraph (1) of subsection (e) of this
253 Code section, but in tiers 3 and 4 the credit established by this Code section taken in any
254 one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer's
255 state income tax liability which is attributable to income derived from operations in this
256 state for that taxable year. In tier 1 and 2 counties, the credit allowed under this Code
257 section against taxes imposed under this article in any taxable year shall be limited to an
258 amount not greater than 100 percent of the taxpayer's state income tax liability attributable
259 to income derived from operations in this state for such taxable year.

260 (i) Notwithstanding any provision of this Code section to the contrary, in counties
261 recognized and designated as the first through fortieth least developed counties in the tier 1
262 designation, job tax credits shall be allowed as provided in this Code section, in addition
263 to business enterprises or existing business enterprises, to any business of any nature.

264 (j) Notwithstanding Code Section 48-2-35, any tax credit claimed under this Code section
265 shall be claimed within one year of the earlier of the date the original tax return was filed
266 or the date such return was due as prescribed in subsection (a) of Code Section 48-7-56,
267 including any approved extensions.

268 (k) The commissioner may require such reports, promulgate such regulations, and gather
269 such relevant data necessary and advisable for the evaluation of the job tax credits
270 established by this Code section.

271 (l) Taxpayers that initially claimed the credit under this Code section for any taxable year
272 beginning before January 1, ~~2012~~ 2020, shall be governed, for purposes of all such credits
273 claimed as well as any credits claimed in subsequent taxable years related to such initial
274 claim, by this Code section as it was in effect for the taxable year in which the taxpayer
275 made such initial claim."

276 SECTION 1-2.

277 Said article is further amended by revising Code Section 48-7-40.17, relating to establishing
278 or relocating quality jobs and tax credit, as follows:

279 "48-7-40.17.

280 (a) As used in this Code section, the term:

281 (1) 'Average wage' means the average wage of the county in which a new quality job is
282 located as reported in the most recently available annual issue of the Georgia
283 Employment and Wages Averages Report of the Department of Labor.

284 (2) 'New quality job' means employment for an individual which:

285 (A) Is located in this state;

286 (B) Has a regular work week of 30 hours or more;

287 (C) Is not a job that is or was already located in Georgia regardless of which taxpayer
288 the individual performed services for; and

289 (D) Pays at or above 110 percent of the average wage of the county in which it is
290 located.

291 (3) 'Qualified investment property' means all real and personal property purchased or
292 acquired by a taxpayer for use in a qualified project, including, but not limited to,
293 amounts expended on land acquisition, improvements, buildings, building improvements,
294 and any personal property to be used in the facility or facilities. Any lease for a period
295 of three years or longer of any real or personal property used in a new or expanded
296 facility or facilities which would otherwise constitute qualified investment property shall
297 be treated as the purchase or acquisition thereof by the lessee. The taxpayer may treat the
298 full value of the leased property as qualified investment property in the year in which the
299 lease becomes binding on the lessor and the taxpayer.

300 (4) 'Qualified investment property requirement' means the requirement that a minimum
301 of \$2.5 million in qualified investment property will have been purchased or acquired by
302 the taxpayer to be used with respect to a qualified project. Such qualified investment
303 property must be placed in service by the end of the two-year period specified in
304 subsection (b) of this Code section.

305 (5) 'Qualified project' means a project which meets the qualified investment property
306 requirement and which involves the lease or construction of one or more new facilities
307 in this state or the expansion of one or more existing facilities in this state. For purposes
308 of this paragraph, the term 'facilities' means all facilities comprising a single project,
309 including noncontiguous parcels of land, improvements to such land, buildings, building
310 improvements, and any personal property that is used in the facility or facilities.

311 (6) 'Rural county' shall have the same meaning as provided in Code Section 48-7-40.

312 (6)(7) 'Taxpayer' means any person required by law to file a return or to pay taxes,
313 except that any taxpayer may elect to consider the jobs within its disregarded entities, as
314 defined in the Internal Revenue Code, for purposes of calculating the number of new
315 quality jobs created by the taxpayer under this Code section.

316 (b) A taxpayer establishing new quality jobs in this state or relocating quality jobs into this
317 state, which elects not to receive the tax credits provided for by Code Sections 48-7-40,

318 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, and 48-7-40.9 for such
319 jobs and investments created by, arising from, related to, or connected in any way with the
320 same project, ~~that creates: and, within one year of the first date on which the taxpayer~~
321 ~~pursuant to the provisions of Code Section 48-7-101~~ ~~withholds wages for employees in this~~
322 ~~state and employs at least 50 persons in new quality jobs in this state, shall be allowed a~~
323 ~~credit for taxes imposed under this article, except that if the first date on which the~~
324 ~~taxpayer, pursuant to the provisions of Code Section 48-7-101, withholds wages for~~
325 ~~employees in this state occurs in a taxable year beginning on or after January 1, 2017, the~~
326 ~~taxpayer has two years to employ at least 50 persons in new quality jobs in this state.~~

327 (1) At least five new quality jobs within a single rural county within one year of the first
328 date on which the taxpayer withholds wages for employees in this state pursuant to the
329 provisions of Code Section 48-7-101, provided that such county is designated as a tier 1
330 county by the commissioner of community affairs in accordance with Code
331 Section 48-7-40;

332 (2) At least ten new quality jobs within a single rural county within one year of the first
333 date on which the taxpayer withholds wages for employees in this state pursuant to the
334 provisions of Code Section 48-7-101, provided that such county is designated as a tier 2
335 county by the commissioner of community affairs in accordance with Code
336 Section 48-7-40; or

337 (3) At least 50 new quality jobs in this state within two years of the first date on which
338 the taxpayer pursuant to the provisions of Code Section 48-7-101 withholds wages for
339 employees in this state

340 shall be allowed a credit for taxes imposed under this article as provided in subsection (b.1)
341 of this Code section.

342 (b.1) The value of the credit allowed pursuant to this Code section shall be:

343 (1) Equal to \$2,500.00 annually per eligible new quality job where the job pays 110
344 percent or more but less than 120 percent of the average wage of the county in which the
345 new quality job is located;

346 (2) Equal to \$3,000.00 annually per eligible new quality job where the job pays 120
347 percent or more but less than 150 percent of the average wage of the county in which the
348 new quality job is located;

349 (3) Equal to \$4,000.00 annually per eligible new quality job where the job pays 150
350 percent or more but less than 175 percent of the average wage of the county in which the
351 new quality job is located;

352 (4) Equal to \$4,500.00 annually per eligible new quality job where the job pays 175
353 percent or more but less than 200 percent of the average wage of the county in which the
354 new quality job is located; and

355 (5) Equal to \$5,000.00 annually per eligible new quality job where the job pays 200
356 percent or more of the average wage of the county in which the new quality job is
357 located.;

358 ~~provided, however, that where~~

359 (b.2)(1) ~~If the amount of such credit the tax credit allowed pursuant to this Code section~~
360 exceeds a taxpayer's liability for such taxes in a taxable year, the excess may be taken as
361 a credit against such taxpayer's quarterly or monthly payment under Code
362 Section 48-7-103 but ~~shall not to~~ exceed in any one taxable year the credit amounts in
363 paragraphs (1) through (5) of ~~subsection (b.1) of this subsection~~ ~~Code section~~ for each
364 new quality job when aggregated with the credit applied against taxes under this article.
365 Each employee whose employer receives ~~a~~ credit against such taxpayer's quarterly or
366 monthly payment under Code Section 48-7-103 shall receive a credit against his or her
367 income tax liability under Code Section 48-7-20 for the corresponding taxable year for
368 the full amount which would be credited against such liability prior to the application of
369 the credit provided for in this ~~subsection~~ ~~Code section~~. Credits against quarterly or
370 monthly payments under Code Section 48-7-103 and credits against liability under Code
371 Section 48-7-20 established by this subsection shall not constitute income to the taxpayer.

372 (2)(A) For each new quality job created, the credit ~~established by this subsection~~
373 ~~allowed pursuant to this Code section~~ may be taken for the first taxable year in which
374 the new quality job is created and for the four immediately succeeding taxable years;
375 provided, however, that such new quality jobs must be created within seven years from
376 the close of the taxable year in which the taxpayer first becomes eligible for such credit.

377 (B) ~~A credit~~ Credit shall not be allowed during a year if the net employment increase
378 falls below the ~~50~~ number of new quality jobs required by subsection (b) of this Code
379 section. Any credit received for years prior to the year in which the net employment
380 increase falls below the ~~50~~ number of new quality jobs required by subsection (b) of
381 this Code section shall not be affected except as provided in subsection (g) of this Code
382 section. The state revenue commissioner shall adjust the credit allowed each year for
383 net new employment fluctuations above the ~~50~~ number of new quality jobs required by
384 subsection (b) of this Code section.

385 (c) Only a taxpayer that completes the creation of a qualified project in a taxable year
386 beginning on or after January 1, 2017, shall be eligible to begin a subsequent seven-year
387 job creation period for the qualified project, provided that the taxpayer creates 50 or more
388 new quality jobs, at the site or sites of a qualified project or the facility or facilities
389 resulting therefrom, above its single previous high yearly average number of new quality
390 jobs during any prior seven-year job creation period. A subsequent seven-year job creation
391 period is subject to all the requirements of this Code section. A taxpayer must notify the

392 commissioner of ~~their~~ its intent to begin a subsequent seven-year job creation period. The
393 commissioner shall provide by regulation the time in which such notification shall occur.
394 New quality jobs generated under previous seven-year job creation periods shall continue
395 to be eligible for the credit as provided by this Code section. No new quality jobs may be
396 generated under previous periods of eligibility after a subsequent period of eligibility has
397 begun. New quality jobs created in a subsequent seven-year job creation period shall not
398 be counted as additional new quality jobs under a previous seven-year job creation period;
399 instead those new quality jobs shall count toward the subsequent period. For purposes of
400 determining the number of new quality jobs in a particular year that are attributable to each
401 seven-year job creation period, the taxpayer shall begin with the first seven-year job
402 creation period and then attribute the remainder to each subsequent seven-year job creation
403 period from the oldest to the newest. Such attributions shall be made up to the single high
404 yearly average number of new quality jobs for each seven-year job creation period. A
405 taxpayer may create more than one subsequent seven-year job creation period. If at the
406 time a taxpayer begins a subsequent seven-year job creation period, the taxpayer had a year
407 or years in the prior seven-year job creation period where the number of new quality jobs
408 ~~were~~ was below the single high yearly average number of new quality jobs, the taxpayer
409 shall be allowed to make an irrevocable election to use the average number of new quality
410 jobs for the completed years in the prior seven-year job creation period instead of the single
411 high yearly average number of new quality jobs for all purposes of this subsection. If such
412 election is made, the number of new quality jobs in the years subsequent to the completed
413 years for the prior seven-year job creation period shall be deemed to not exceed the average
414 number of new quality jobs for the completed years in the prior seven-year job creation
415 period. New quality jobs over such average number shall be attributed to the subsequent
416 seven-year job creation period as provided in this subsection.

417 (d) The number of new quality jobs to which this Code section shall be applicable shall
418 be determined by comparing the monthly average of new quality jobs subject to Georgia
419 income tax withholding for the taxable year with the corresponding average for the prior
420 taxable year.

421 (e) Any credit claimed under this Code section but not used in any taxable year may be
422 carried forward for ten years from the close of the taxable year in which the new quality
423 jobs were established.

424 (f) Notwithstanding Code Section 48-2-35, any tax credit claimed under this Code section
425 shall be claimed within one year of the earlier of the date the original return was filed or
426 the date such return was due as prescribed in subsection (a) of Code Section 48-7-56,
427 including any approved extensions.

428 (g) Taxpayers that initially claimed the credit under this Code section for any taxable year
429 beginning before January 1, 2012 2020, shall be governed, for purposes of all such credits
430 claimed as well as any credits claimed in subsequent taxable years related to such initial
431 claim, by this Code section as it was in effect for the taxable year in which the taxpayer
432 made such initial claim.

433 (h) The state revenue commissioner shall promulgate any rules and regulations necessary
434 to implement and administer this Code section."

435 **PART II**

436 **SECTION 2-1.**

437 Said article is further amended by revising Code Section 48-7-40.2, relating to tax credits for
438 existing manufacturing and telecommunications facilities in tier 1 counties and conditions
439 and limitations, as follows:

440 "48-7-40.2.

441 (a) As used in this Code section, the term:

442 (1) 'Product' means a marketable product or component of a product which has an
443 economic value to the wholesale or retail consumer and is ready to be used without
444 further alteration of its form, or a product or material which is marketed as a prepared
445 material or is a component in the manufacturing and assembly of other finished products.

446 (2) 'Qualified investment property' means all real and personal property purchased or
447 acquired by a taxpayer for use in the construction of an additional manufacturing or
448 telecommunications facility to be located in this state or the expansion of an existing
449 manufacturing or telecommunications facility located in this state, including, but not
450 limited to, amounts expended on land acquisition, improvements, buildings, building
451 improvements, and machinery and equipment to be used in the manufacturing or
452 telecommunications facility. The department shall promulgate rules defining eligible
453 manufacturing facilities, telecommunications facilities, and qualified investment property
454 pursuant to this paragraph.

455 (3) 'Recovered materials' means those materials, including but not limited to, such
456 materials as aluminum, oil, plastic, paper, paper products, scrap metal, iron, glass, and
457 rubber, which have known use, reuse, or recycling potential; can be feasibly used, reused,
458 or recycled; and have been diverted or removed from the solid waste stream for sale, use,
459 reuse, or recycling, whether or not requiring subsequent separation and processing.

460 (4) 'Recycling' means any process by which materials which would otherwise become
461 solid waste are collected, separated, or processed and reused or returned to use in the
462 form of raw materials or products.

463 (5) 'Recycling machinery and equipment' means all tangible personal property used,
464 directly or indirectly, to sort, store, prepare, convert, process, fabricate, or manufacture
465 recovered materials into finished products which are composed of at least 25 percent
466 recovered materials, such term including, but not being limited to, power generation and
467 pollution control machinery and equipment.

468 (6) 'Recycling manufacturing facility' means any facility, including land, improvements
469 to land, buildings, building improvements, and any recycling machinery and equipment
470 used in the recycling process resulting in the manufacture of finished products from
471 recovered materials, provided that up to 10 percent of any building that is a component
472 of a recycling facility may be used for office space to house support staff for the recycling
473 operation.

474 (7) 'Rural county' shall have the same meaning as provided in Code Section 48-7-40.

475 (b) In the case of a taxpayer which has operated for the immediately preceding three years
476 an existing manufacturing or telecommunications facility or a manufacturing or
477 telecommunications support facility in this state in a tier 1 county designated pursuant to
478 Code Section 48-7-40, there shall be allowed a credit against the tax imposed under this
479 article in an amount equal to 5 percent of the cost of all qualified investment property
480 purchased or acquired by the taxpayer in such year, subject to the conditions and
481 limitations set forth in this Code section. In the event such qualified investment property
482 purchased or acquired by the taxpayer in such year consists of recycling machinery or
483 equipment, a recycling manufacturing facility, pollution control or prevention machinery
484 or equipment, a pollution control or prevention facility, or the conversion from defense to
485 domestic production, the amount of such credit shall be equal to 8 percent.

486 (c) The credit granted under subsection (b) of this Code section shall be subject to the
487 following conditions and limitations:

488 (1) In order to qualify as a basis for the credit, the investment in qualified investment
489 property must occur no sooner than January 1, 1995. The credit may be taken beginning
490 with the tax year immediately following the tax year in which the qualified investment
491 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
492 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
493 the credit may only be taken beginning with the tax year immediately following the tax
494 year in which the qualified investment property having an aggregate cost in excess of
495 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
496 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
497 income tax return which will set forth the following information, as a minimum:

498 (A) A description of the project;
499 (B) The amount of qualified investment property acquired during the taxable year;

500 (C) The amount of tax credit claimed for the taxable year;
501 (D) The amount of qualified investment property acquired in prior taxable years;
502 (E) Any tax credit utilized by the taxpayer in prior taxable years;
503 (F) The amount of tax credit carried over from prior years;
504 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
505 (H) The amount of tax credit to be carried over to subsequent tax years;
506 (2)(A) Any credit claimed under this Code section but not used in any taxable year
507 may be carried forward for ten years from the close of the taxable year in which the
508 qualified investment property was acquired, provided that such qualified investment
509 property remains in service:.

510 (B)(i) The credit established by this Code section taken in any one taxable year shall
511 be limited to an amount not greater than 50 percent of the taxpayer's state income tax
512 liability which is attributable to income derived from operations in this state for that
513 taxable year.

514 (ii) Notwithstanding division (i) of this subparagraph, for credit earned pursuant to
515 this Code section from purchases of qualified investment property for a
516 manufacturing or telecommunications facility in a rural county made on or after
517 January 1, 2020, such credit shall:

518 (I) First be applied to such taxpayer's state income tax liability which is attributable
519 to income derived from operations in this state for that taxable year, limited to 50
520 percent of such liability before application of such credit; and

521 (II) If the amount of such credit exceeds the limit set forth in subdivision (I) of this
522 division, the excess may be taken as a credit of up to \$1 million for any one taxable
523 year against such taxpayer's quarterly or monthly payments under Code
524 Section 48-7-103, provided that such \$1 million limit shall be reduced by any
525 amount taken by such taxpayer pursuant to subdivision (c)(2)(B)(ii)(II) of Code
526 Section 48-7-40.3. Each employee for whom an employer receives credit against
527 such employer's quarterly or monthly payment under Code Section 48-7-103 shall
528 receive credit against his or her income tax liability under Code Section 48-7-20 for
529 the corresponding taxable year for the full amount which would be credited against
530 such liability prior to the application of the credit provided for in this paragraph.
531 Credits against quarterly or monthly payments under Code Section 48-7-103 and
532 credits against liability under Code Section 48-7-20 established by this
533 subparagraph shall not constitute income to the employee;

534 provided, however, that credit allowed and used pursuant to subdivision (II) of this
535 division and pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section 48-7-40.3 shall
536 not exceed \$20 million in aggregate for all taxpayers for any calendar year. The

537 commissioner shall establish an application process to ensure that the \$20 million
538 aggregate maximum and the \$1 million per taxpayer maximum are not exceeded. If
539 applications for such credit exceed \$20 million for the calendar year, the commissioner
540 shall allow for the credit to be applied to all eligible applicants in prorated amounts
541 among such applicants, not to exceed \$20 million for the calendar year.

542 (C) The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new
543 eligibility in any succeeding taxpayer, but any unused credit may be transferred and
544 continued by any transferee of the taxpayer;

545 (2.1)(A) Any credit claimed prior to January 1, 2019, pursuant to this Code section by
546 a taxpayer that remains unused by such taxpayer may be applied pursuant to
547 subparagraph (B) of this paragraph for any taxable year beginning on or after
548 January 1, 2020, for which such credit may be carried forward pursuant to
549 paragraph (2) of this subsection provided that within a single taxable year such
550 taxpayer:

- 551 (i) Maintains within rural counties at least 100 full-time employee jobs as such term
552 is defined in Code Section 48-7-40.24; and
- 553 (ii) Purchases or acquires at least \$5 million of qualified investment property for
554 manufacturing or telecommunications facilities within rural counties.

555 (B) Subject to the requirements established by subparagraph (A) of this paragraph, a
556 taxpayer may elect to apply such credit that has been carried forward as allowed
557 pursuant to division (ii) of subparagraph (B) of paragraph (2) of this Code section.

558 (C)(i) Qualified investment property purchased or acquired in connection with
559 division (ii) of subparagraph (A) of this paragraph may be eligible for credit granted
560 under subsection (b) of this Code section, provided that the conditions for such credit
561 are met independently of this paragraph. Any such new credit earned shall be applied
562 as provided in paragraph (2) of this subsection.

563 (ii) For the taxable year in which the jobs that are required to be maintained in
564 division (i) of subparagraph (A) of this subsection are maintained, such jobs shall not
565 be eligible to be used or claimed as the basis for any other tax credit or benefit
566 allowed by state law.

567 (D) This paragraph shall not extend the carry forward period for any credit.

568 (E) This paragraph shall stand repealed by operation of law on the last moment of
569 December 31, 2029;

570 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
571 this Code section, the taxpayer shall include in the description of the project required by
572 subparagraph (A) of paragraph (1) of this subsection, information which demonstrates
573 that the project includes the acquisition of qualified investment property having an

574 aggregate cost in excess of ~~\$50,000.00~~ the amount required by paragraph (1) of this
575 subsection;

576 (4) Any lease for a period of five years or longer of any real or personal property used
577 in a new or expanded manufacturing or telecommunications facility which would
578 otherwise constitute qualified investment property shall be treated as the purchase or
579 acquisition of qualified investment property by the lessee. The taxpayer may treat the full
580 value of the leased property as qualified investment property in the taxable year in which
581 the lease becomes binding on the lessor and the taxpayer if all other conditions of this
582 subsection have been met; and

583 (5) The utilization of the credit granted in subsection (b) of this Code section shall have
584 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
585 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
586 such assets for the purpose of depreciation.

587 (d)(1) ~~Except as otherwise provided in paragraph (2) of this subsection, no~~ No taxpayer
588 shall be authorized to claim on a tax return for a given project the credit provided for in this
589 Code section if such taxpayer claims on such tax return any of the credits authorized under
590 Code Section 48-7-40 or 48-7-40.1.

591 (2) ~~For taxable years beginning on or after January 1, 1995, and ending on or prior to~~
592 ~~December 31, 1998, a taxpayer shall be authorized to claim on a tax return for a given~~
593 ~~project the credit provided for in this Code section and to claim, if otherwise qualified~~
594 ~~under Code Section 48-7-40, the tax credit applicable to tier 1 counties under Code~~
595 ~~Section 48-7-40, subject to the following limitations:~~

596 (A) ~~Not less than 250 new full-time employee jobs must be created in the first taxable~~
597 ~~year and maintained through the end of the third taxable year in which the taxpayer~~
598 ~~claims both credits as authorized under this paragraph; and~~
599 (B) ~~An otherwise qualified taxpayer shall not be entitled to receive the additional tax~~
600 ~~credit authorized under Code Section 36-62-5.1 in any taxable year in which that~~
601 ~~taxpayer claims both of the tax credits as authorized under this paragraph."~~

602 SECTION 2-2.

603 Said article is further amended in Code Section 48-7-40.3, relating to tax credits for existing
604 manufacturing and telecommunications facilities in tier 2 counties and conditions and
605 limitations, by revising subsection (c) as follows:

606 "(c) The credit granted under subsection (b) of this Code section shall be subject to the
607 following conditions and limitations:

608 (1) In order to qualify as a basis for the credit, the investment in qualified investment
609 property must occur no sooner than January 1, 1995. The credit may be taken beginning

610 with the tax year immediately following the tax year in which the qualified investment
611 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
612 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
613 the credit may only be taken beginning with the tax year immediately following the tax
614 year in which the qualified investment property having an aggregate cost in excess of
615 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
616 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
617 income tax return which will set forth the following information, as a minimum:

- 618 (A) A description of the project;
- 619 (B) The amount of qualified investment property acquired during the taxable year;
- 620 (C) The amount of tax credit claimed for the taxable year;
- 621 (D) The amount of qualified investment property acquired in prior taxable years;
- 622 (E) Any tax credit utilized by the taxpayer in prior taxable years;
- 623 (F) The amount of tax credit carried over from prior years;
- 624 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
- 625 (H) The amount of tax credit to be carried over to subsequent tax years;

626 (2)(A) Any credit claimed under this Code section but not used in any taxable year
627 may be carried forward for ten years from the close of the taxable year in which the
628 qualified investment property was acquired, provided that such qualified investment
629 property remains in service.

630 (B)(i) The credit established by this Code section taken in any one taxable year shall
631 be limited to an amount not greater than 50 percent of the taxpayer's state income tax
632 liability which is attributable to income derived from operations in this state for that
633 taxable year.

634 (ii) Notwithstanding division (i) of this subparagraph, for credit earned pursuant to
635 this Code section from purchases of qualified investment property for a
636 manufacturing or telecommunications facility in a rural county made on or after
637 January 1, 2020, such credit shall:

- 638 (I) First be applied to such taxpayer's state income tax liability which is attributable
639 to income derived from operations in this state for that taxable year, limited to 50
640 percent of such liability before application of such credit; and
- 641 (II) If the amount of such credit exceeds the limit set forth in subdivision (I) of this
642 division, the excess may be taken as a credit of up to \$1 million for any one taxable
643 year against such taxpayer's quarterly or monthly payments under Code
644 Section 48-7-103, provided that such \$1 million limit shall be reduced by any
645 amount taken by such taxpayer pursuant to subdivision (c)(2)(B)(ii)(II) of Code
646 Section 48-7-40.2. Each employee for whom an employer receives credit against

647 such employer's quarterly or monthly payment under Code Section 48-7-103 shall
648 receive credit against his or her income tax liability under Code Section 48-7-20 for
649 the corresponding taxable year for the full amount which would be credited against
650 such liability prior to the application of the credit provided for in this paragraph.
651 Credits against quarterly or monthly payments under Code Section 48-7-103 and
652 credits against liability under Code Section 48-7-20 established by this
653 subparagraph shall not constitute income to the employee;
654 provided, however, that credit allowed and used pursuant to subdivision (II) of this
655 division and pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section 48-7-40.2 shall
656 not exceed \$20 million in aggregate for all taxpayers for any calendar year. The
657 commissioner shall establish an application process to ensure that the \$20 million
658 aggregate maximum and the \$1 million per taxpayer maximum are not exceeded. If
659 applications for such credit exceed \$20 million for the calendar year, the commissioner
660 shall allow for the credit to be applied to all eligible applicants in prorated amounts
661 among such applicants, not to exceed \$20 million for the calendar year.
662 (C) The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new
663 eligibility in any succeeding taxpayer, but any unused credit may be transferred and
664 continued by any transferee of the taxpayer;
665 (2.1)(A) Any credit claimed prior to January 1, 2019, pursuant to this Code section by
666 a taxpayer that remains unused by such taxpayer may be applied pursuant to
667 subparagraph (B) of this paragraph for any taxable year beginning on or after
668 January 1, 2020, for which such credit may be carried forward pursuant to
669 paragraph (2) of this subsection provided that within a single taxable year such
670 taxpayer:
671 (i) Maintains within rural counties at least 100 full-time employee jobs as such term
672 is defined in Code Section 48-7-40.24; and
673 (ii) Purchases or acquires at least \$10 million of qualified investment property for
674 manufacturing or telecommunications facilities within rural counties.
675 (B) Subject to the requirements established by subparagraph (A) of this paragraph, a
676 taxpayer may elect to apply such credit that has been carried forward as allowed
677 pursuant to division (ii) of subparagraph (B) of paragraph (2) of this Code section.
678 (C)(i) Qualified investment property purchased or acquired in connection with
679 division (ii) of subparagraph (A) of this paragraph may be eligible for credit granted
680 under subsection (b) of this Code section, provided that the conditions for such credit
681 are met independently of this paragraph. Any such new credit earned shall be applied
682 as provided in paragraph (2) of this subsection.

(ii) For the taxable year in which the jobs that are required to be maintained in division (i) of subparagraph (A) of this subsection are maintained, such jobs shall not be eligible to be used or claimed as the basis for any other tax credit or benefit allowed by state law.

(D) This paragraph shall not extend the carry forward period for any credit.

(E) This paragraph shall stand repealed by operation of law on the last moment of December 31, 2029;

(3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of this Code section, the taxpayer shall include in the description of the project required by subparagraph (A) of paragraph (1) of this subsection information which demonstrates that the project includes the acquisition of qualified investment property having an aggregate cost in excess of ~~\$50,000.00~~ the amount required by paragraph (1) of this subsection;

(4) Any lease for a period of five years or longer of any real or personal property used in a new or expanded manufacturing or telecommunications facility which would otherwise constitute qualified investment property shall be treated as the purchase or acquisition of qualified investment property by the lessee. The taxpayer may treat the full

value of the leased property as qualified investment property in the taxable year in which the lease becomes binding on the lessor and the taxpayer if all other conditions of this subsection have been met; and

(5) The utilization of the credit granted in subsection (b) of this Code section shall have no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in such assets for the purpose of depreciation."

SECTION 2-3.

Said article is further amended in Code Section 48-7-40.4, relating to tax credits for existing manufacturing and telecommunications facilities or manufacturing and telecommunications support facilities in tier 3 or 4 counties and conditions and limitations, by revising subsection (c) as follows:

"(c) The credit granted under subsection (b) of this Code section shall be subject to the following conditions and limitations:

(1) In order to qualify as a basis for the credit, the investment in qualified investment property must occur no sooner than January 1, 1995. The credit may be taken beginning with the tax year immediately following the tax year in which the qualified investment property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020, the credit may only be taken beginning with the tax year immediately following the tax

719 year in which the qualified investment property having an aggregate cost in excess of
720 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
721 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
722 income tax return which will set forth the following information, as a minimum:
723 (A) A description of the project;
724 (B) The amount of qualified investment property acquired during the taxable year;
725 (C) The amount of tax credit claimed for the taxable year;
726 (D) The amount of qualified investment property acquired in prior taxable years;
727 (E) Any tax credit utilized by the taxpayer in prior taxable years;
728 (F) The amount of tax credit carried over from prior years;
729 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
730 (H) The amount of tax credit to be carried over to subsequent tax years;
731 (2) Any credit claimed under this Code section but not used in any taxable year may be
732 carried forward for ten years from the close of the taxable year in which the qualified
733 investment property was acquired, provided that such qualified investment property
734 remains in service. The credit established by this Code section taken in any one taxable
735 year shall be limited to an amount not greater than 50 percent of the taxpayer's state
736 income tax liability which is attributable to income derived from operations in this state
737 for that taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall
738 not create new eligibility in any succeeding taxpayer, but any unused credit may be
739 transferred and continued by any transferee of the taxpayer;
740 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
741 this Code section, the taxpayer shall include in the description of the project required by
742 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
743 the project includes the acquisition of qualified investment property having an aggregate
744 cost in excess of \$50,000.00 the amount required by paragraph (1) of this subsection;
745 (4) Any lease for a period of five years or longer of any real or personal property used
746 in a new or expanded manufacturing or telecommunications facility which would
747 otherwise constitute qualified investment property shall be treated as the purchase or
748 acquisition of qualified investment property by the lessee. The taxpayer may treat the full
749 value of the leased property as qualified investment property in the taxable year in which
750 the lease becomes binding on the lessor and the taxpayer if all other conditions of this
751 subsection have been met; and
752 (5) The utilization of the credit granted in subsection (b) of this Code section shall have
753 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
754 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
755 such assets for the purpose of depreciation."

756

PART III

757

SECTION 3-1.

758 This Act shall become effective on July 1, 2019, and shall be applicable to taxable years
759 beginning on or after January 1, 2020.

760

SECTION 3-2.

761 All laws and parts of laws in conflict with this Act are repealed.